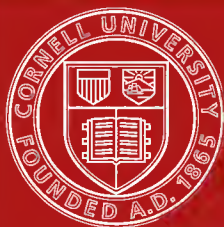


E            U.S. Congress. Senate  
77           Committee on Indian  
U581        Affairs.  
C95           Opening of the  
1916       Crow (Mont.) Indian  
             Reservation.



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# OPENING OF THE CROW (MONT.) INDIAN RESERVATION

## HEARINGS

BEFORE THE

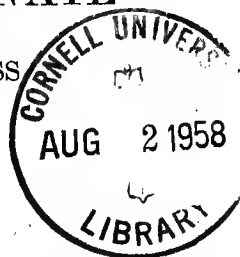
## COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

SIXTY-FOURTH CONGRESS  
SECOND SESSION

ON

S. 2378

A BILL FOR THE OPENING AND SETTLEMENT OF A  
PART OF THE CROW INDIAN RESERVATION  
IN THE STATE OF MONTANA



### PART 4

DECEMBER 13, 1916

Printed for the use of the Committee on Indian Affairs



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## OPENING OF THE CROW (MONT.) INDIAN RESERVATION.

WEDNESDAY, DECEMBER 13, 1916.

UNITED STATES SENATE,  
COMMITTEE ON INDIAN AFFAIRS,  
*Washington, D. C.*

The committee met in the committee room, Capitol, pursuant to adjournment, Senator Henry F. Ashurst presiding.

Present: Senators Ashurst (chairman), Owen, Walsh, Clapp, La Follette, Fernald, Gronna, and Curtis.

Also present: Edgar B. Meritt, Assistant Commissioner of Indian Affairs.

The CHAIRMAN. The committee will come to order.

Senator WALSH. Mr. Chairman, the Crow bill is a special order for this morning, is it not?

The CHAIRMAN. Yes. On August 14 there was a meeting of the committee, and I call your attention to page 120 of the hearings. At that time the Crow bill was set down for final disposition at the request of the Senator from Montana (Mr. Walsh), who asked unanimous consent that it be disposed of this morning, and that unanimous consent order stands, unless repealed by another unanimous consent order.

Senator OWEN. What were the facts with regard to that matter that were ascertained at that time?

The CHAIRMAN. A most voluminous hearing was held.

Senator CURTIS. If we are to proceed now, Mr. Chairman, I desire to say that I have a letter from the Secretary of the Interior that I would like to have read.

The CHAIRMAN. I will have the clerk read the letter.

Senator OWEN. I was under the impression, Mr. Chairman, that we were going to vote on the matter to-day.

The CHAIRMAN. That is the purpose.

The clerk read, as follows:

THE SECRETARY OF THE INTERIOR,  
*Washington, December 12, 1916.*

MY DEAR SENATOR: Under Senate resolution No. 212, Sixty-fourth Congress, the Secretary of the Interior was directed "to permit the said Crow Indians to hold a general council of all the members of that tribe and to make provision that no person or persons who desire the opening of the reservation, nor members or officers of the Indian Bureau who oppose the opening of it, shall attend such council nor influence in any way the conduct of said council or its findings, and that permission to attend said council shall be freely granted to all members of the tribe of Crow Indians who desire to do so."

I beg to advise that in accordance with this resolution the council of the Crow Tribe was duly convened on Friday, August 4, 1916, at which the following reso-

tion protesting against any further reduction of the reservation was unanimously adopted:

"Whereas there has been introduced in the Senate of the United States a bill (S. 2378) to open that portion of the Crow Indian Reservation west of the Big Horn, also that portion of the reservation east of the Little Horn River, to white settlement under the homestead act; and

"Whereas there has been introduced and passed in the Senate of the United States a resolution granting to the Crow Indians the right to hold a general council undisturbed and free from outside influence whatsoever, in order that they may consider said bill S. 2378 with a view of consenting to its provisions or rejecting same; and

"Whereas we, the Crow Indians, have met in council and have considered thoroughly the provisions of said bill and now attest by our thumb prints and signatures attached hereto that the following is a true record of our wishes:

"That the Crow Indians this day in undisturbed council have voted against the provisions of the said Myers's bill, believing it not to be to their best interests that the honorable Congress should consider at this time the action contemplated in said bill. That this view is unanimously held, viz, that by retaining our reservation intact, developing its resources to the fullest extent which are to be found in the undeveloped mineral lands, coal lands, oil lands, and timbered lands of our reservation, and the undeveloped water-power sites on our reservation; in the wise expenditures of our funds held in trust for stock and other purposes to be apportioned to us individually; in the reduction of the unnecessary operative expenditures of our reservation. That the surplus lands that would be subject to homestead entry are of such a character that entrymen can not possibly make a living therefrom by reason of its roughness and scarcity of water, as lands of similar character in the last ceded strip have in many cases not been homesteaded only when sold in very large tracts at only \$2 per acre: Therefore be it

"Resolved, By the Crow Tribe of Indians in council assembled this 5th day of August, A. D. 1916, that we most respectfully petition the honorable Congress of the United States to respectfully comply, if possible, with these our sincere requests.

"That we hereby empower any delegation this council sends to Washington to present our views and wishes and that such delegates be paid \$3 per day and all necessary traveling expenses.

"We respectfully ask that members of the Senate committee direct the Commissioner of Indian Affairs to use such funds belonging to the Crow Tribe not otherwise appropriated to pay the expenses of this delegation."

In this connection I beg to refer you to Article XI of the treaty of May 7, 1868 (15 Stats. L., 649, 652), providing as follows:

"No treaty for the cession of any portion of the reservation herein described which may be held in common shall be of any force or validity as against the said Indians unless executed and signed by at least a majority of all the adult male Indians occupying or interested in the same, and no cession by the tribe shall be understood or construed in such manner as to deprive without his consent any individual member of the tribe of his right to any tract of land selected by him as provided in Article VI of this treaty."

Cordially, yours,

FRANKLIN K. LANE, *Secretary.*

HON. HENRY F. ASHURST,

*Chairman Committee on Indian Affairs,*

*United States Senate.*

Senator CURTIS. Mr. Chairman, I have been requested to have read to the committee the showing made at the council. This paper was handed me yesterday, with the names signed to it. I ask that it may be read, if it has not already been read into the record. I had to leave the committee at the last meeting and I do not know whether it was read or not. Senator Gronna informs me that it was read, and is in the record. Mr. Chairman, I received yesterday by registered mail—and I would like to have the record show that this was mailed December the 8th and delivered here on December the 11th—a petition which is addressed to Messrs. Curtis, Lane, and the chairman,

and was delivered at my office because it was addressed to me. I wish to have it read and filed. It seems to be from members of the tribe who did not attend the meeting of the council.

The CHAIRMAN. You desire to have this read?

Senator CURTIS. Yes. I received it and spoke to you about it yesterday and you asked me to present it. It was addressed to the three of us.

The CHAIRMAN. The clerk will read.

The clerk read as follows:

RESOLUTION BY THE CROW INDIANS IN COUNCIL DULY CALLED BY THE AUTHORITY OF THE COMMISSIONER OF INDIAN AFFAIRS HELD ON NOVEMBER 22, 1915, AT CROW AGENCY, MONT.

*Be it resolved* by the Crow Tribe of Indians of Montana in council held at Crow Agency, Mont., which was duly called by the superintendent of the Crow Agency, under the direction of the honorable Commissioner of Indian Affairs, that the members of said council in attendance from each district on the Crow Reservation, representing the Crow Tribe of Indians and speaking for themselves and on behalf of all of the members of the Crow Tribe of Indians, respectfully request and petition the President of the United States, the Congress of the United States, the honorable Secretary of the Interior, and the honorable Commissioner of Indian Affairs to use all honorable means within their power to prevent the throwing open of the Crow Indian Reservation in Montana, or any portion thereof, for purchase and settlement by the white people.

We have been informed and have reason to believe that it is the purpose and intention of certain white men residing at Hardin and Billings, Mont.; Sheridan, Wyo., and other places adjacent to the Crow Indian Reservation to make an effort through the Congress of the United States to have thrown open our said Crow Reservation to settlement and purchase by the white people, and we earnestly and vigorously protest against same and desire you to know that this resolution is a protest on the part of the tribe of Crow Indians of Montana against such opening of their reservation and voices the wishes and sentiments of practically the entire tribe of Crow Indians.

We, the Crow Indians, represent that about two years ago we were furnished with a tribal herd of cattle of upwards of 9,000 head. This herd increased until at the present time we have about 12,500 head in said tribal herd. The individual cattle held by Crow Indians amount to at least another 3,000, so that we have at the present time between 15,000 and 16,000 head of cattle belonging to us Crow Indians. We also have several thousand horses for the intelligent propagation of which we have purchased a large number of fine registered stallions, and we need for our own use a very large portion of our range and reservation for the grazing of our herds of cattle and horses, which will increase steadily in numbers from now on, until we hope within the next few years to use all of our range for the grazing of our own cattle and other live stock, as we have large sums in the Treasury available for the additional purchase of more cattle.

We further represent that we have on the Crow Indian Reservation irrigation works which have cost the Crow tribe of Indians, not the Government, about \$1,250,000, which irrigates large tracts of lands in the valleys, and large amount of these lands are being farmed by the members of the Crow Tribe of Indians, and they are increasing their farming and agricultural operations each year. This year the acreage which was in crops and the amounts of crops raised have far exceeded that of any previous year. We intend to increase our farming and agricultural pursuits and want our lands and reservation to remain undisturbed. We would ask in this connection that it is nothing more than fair to permit us time enough to adapt ourselves to the new conditions forced upon us, to the new mode of living, and the new competitive methods of gaining a livelihood; the new line of reasoning, and all of these new conditions which the white man, with his knowledge of things handed down from ages and which it has taken him this length of time to master, and which he now asks us to assimilate in a fortnight.

We further represent that on the ceded portion of the Crow Reservation heretofore thrown open, lying north of our present reservation, there is still a large amount of those lands in said ceded strip which still remain unsold and

undisposed of to the white people, approximately 280,000 acres still remaining unsold; that on the portion that has been sold a great many delinquencies have occurred, delaying, in many cases, payment on said lands for as long a period as two and three years. This in effect shows that most of the lands that have been ceded are not occupied by bona fide settlers but are bought by large interests and individuals for purely speculative purposes and as a result of this nature of buying, we, the Crow Indians, who ceded this territory in good faith, suffer because of the delay in payments for same, and we firmly believe that if the portion now intended to be opened by the people of Hardin, Billings, and Sheridan were considered the above conditions would still exist, only upon a much larger scale, as the character of the lands to be opened are such that it is a question that bona fide settlers can make their living therefrom. The records of the Land Office show that there is approximately 600,000 acres of vacant public domain unsold and undisposed of lying adjacent to the Crow Indian Reservation, and 19,000,000 in Montana, which further shows that there is no necessity for the opening of the Crow Reservation at the present time. And we are reliably informed and know that a large amount of our ceded lands have gone into the hands of large stockmen and speculators instead of going into the hands of the homesteaders and the home builder as was the intention when said ceded strip was thrown open.

We further state that the grazing lands of our Crow Reservation, other than those which we are using for our own tribal herds and stock at the present time, has been leased for grazing purposes for a period of five years from February 1, 1916, the revenues derived from such leases being valuable to our tribe and which, aside from furnishing us Crow Indians with certain moneys, furnishes funds with which to properly conduct and administer the affairs of our reservation. The fact should not be overlooked that the Crow Reservation is one of the very few reservations of the country that is maintained absolutely upon its own resources. Congress each year provides only \$6,000 by treaty for the pay of five positions upon this reservation. Aside from this every penny that goes to defray the operative expenses of our reservation is derived from revenues that are received in the way of lease moneys, etc. In the event the opening is considered the great amount necessary to defray these expenses, which amounts to something over \$100,000 each year, must necessarily come from Congress.

We further represent that many of our children, all of whom were born since the allotments were made on the Crow Reservation, are still to be allotted lands on said Crow Reservation, and that a large amount of other lands on said reservation will be needed for allotting children still to be born to the Crow Tribe of Indians, and still another great amount will be needed to allot those 400 eligible under Allotting Agent Hatchett. Thus it can be seen that when we have all received our allotments the best of our lands will have passed into the hands of Crows, leaving only a few high and barren ridges for settlement; that we need to provide for our future as to our lands, our homes, our cattle and stock, our agricultural lands and grazing lands, our irrigation, and to protect our fences about our present reservation and division fences which have been constructed at a large expense to the Crow Tribe of Indians, all of which would become a total loss in case our reservation was thrown open to settlement.

We further respectfully represent that the present is no time to dispose of our lands and reservation and would not be to the best interest of the Crow Tribe of Indians, for the reason that our lands would not bring but a very small amount of money at the present time, nor the value thereof, but such lands will be much more valuable and bring us a much larger revenue in years to come if it then be found necessary to open our Crow Reservation.

We further state in this connection that it has been shown us here that the time has not arrived when the two peoples are ready to intermingle as one, each recognizing the other as his equal; but, on the other hand, a chasm exists between the two people, evidently because of racial feeling, the white man feeling much superior to the Indian, therefore unfit for his association, as evidenced by the fact that jim-crow tables are in existence in both Hardin, Mont., and Crow Agency, Mont.; that the public schools of Wyola and Lodge Grass have refused to admit Indian children who were eligible by reason of their legal status and were shown the greatest of racial hatred. In some instances this feeling grew to such an extent that parents of these white children removed their children to public schools at other places where there were no Indians.

Surely it can not be contended from any point of reasoning that the Government in justice to us should longer entertain the diabolical intention of these



designing politicians and land sharks and stockmen, who, while patting us on the back with one hand conceal in the other a dagger with which they intend to bleed us: Therefore be it

*Resolved*, That for the reasons herein set forth, and others that will be advanced by our delegates, the Crow Tribe of Indians in council assembled this 22d day of November, A. D. 1915, vigorously protest against the throwing open of their Crow Indian Reservation in Montana, or any part or portion thereof, and that we represent the Crow Tribe of Indians and each district on the Crow Reservation and speak for and on behalf of ourselves and the entire Tribe of Crow Indians: Be it further

*Resolved*, That we empower our chairman to select such men as have shown themselves qualified by their progressiveness to act in the capacity of representatives to speak for and on behalf of the tribe before the honorable Secretary of the Interior and the honorable Commissioner of Indian Affairs and before the different committees of Congress, and that after such selection is made we hereby agree that they and only they shall be our representatives in Washington; that if any others than those elected by this council appear in Washington or individuals through letters protest against the proceedings of this council, we respectfully ask that the Commissioner or Secretary and the honorable Congress of the United States refuse to accept same as being the wishes of the Crow Indians: Be it further

*Resolved*, That a copy of this resolution be sent to the President of the United States, to the Congress of the United States and the presiding officer of each body thereof, to the honorable Secretary of the Interior and the honorable Commissioner of Indian Affairs, and we ask you and each of you to use all means within your power to prevent the throwing open of our reservation or any part thereof.

The said resolution was duly passed after being voted on as follows:

Votes for:

Plenty Coos, Charles Clawson, Bull Dont Fall Down (thumb mark), Bear in the Middle (thumb mark), Bird Hat (thumb mark), Holds Enemy (thumb mark), Sebastian Long Bear, James Buffalo, Richard Cummins, Austin Stray Calf, Joe Child in in Mouth, Luke B. Rock, Richard Daylight, Fred Oldhorn, G. Hart Thomas, George W. Hogan, Elmer Takes Wrinkle, Door (thumb mark), Sidney Blackhair, Old Coyote (thumb mark), Young Yellow Wolf (thumb mark), Victor Singer, Jasper Long Tail, Charles Yarlott, Joseph Martinez, Peter Bompard, Joseph Spotted Rabbit, John Frost, James Carpenter, Blake Whiteman Runs Him, Iron Fork (thumb mark), Kills Jacob Woodtick (thumb mark), Strong Heart (thumb mark), Good Horse (thumb mark), Bushy Head (thumb mark), Shot in Nose (thumb mark), Old Rabbit (thumb mark), Looks at Ground (thumb mark), Puts on Antelope Cap (thumb mark), Albert Anderson, Comes up Red (thumb mark), Stops (thumb mark), Left Hand (thumb mark), Thomas Medicinehorse, Frank Hawk, Top of Moccasin (thumb mark), Tie Crooked Arm, Francis La Forge, Old Horn (thumb mark), Billy Steel, Louis Bompard, The Eagle (thumb mark), Falls Down Old (thumb mark), Dont Mix (thumb mark), Plain Owl (thumb mark), Medicine Mane (thumb mark), Pretty Paint (thumb mark), Takes Enemy #2 (thumb mark), The Moon (thumb mark), Plenty Wing (thumb mark), Bright Wing (thumb mark), Sits Down Spotted (thumb mark), Plenty Hawk (thumb mark), No Horse (thumb mark), Mrs. Thomas Kent (thumb mark), Frank Reed, Robert Yellowtail, Barney Looks Back, Harry Whiteman, Curley (thumb mark), White Man Runs Him (thumb mark), Two Leggins (thumb mark), Medicine Crow (thumb mark), Crooked Arm (thumb mark), Young Swallow (thumb mark), Dominic Old Elk, Thomas Longtail, Thomas Tobacco, Thomas Stewart, Isaac McAllister, Alphonsus Child in Mouth, Thomas Big Lake, Leo Hugs, Leo Bad Horse, Matie W. Small, George White Bear, White Dog (thumb mark), Scolds Bear (thumb mark), Knows His Coos (thumb mark), Sharp Nose (thumb mark), Pretty Horse (thumb mark), Frank Yarlott, Paul Scott, Eric Birdabove, Hole, Henry Russell, Herbert Old Bear, Frank Bethune, Philip Ironhead, Shield Chief (thumb mark), Fights Wellknown (thumb mark), Eagle Turns (thumb mark), Plenty Buffalo (thumb mark), Bird Wellknown (thumb

mark), High Medicine Rock (thumb mark), Walks with Wolf (thumb mark), Other Bull (thumb mark), Does Everything (thumb mark), Bird Horse (thumb mark), Bird Above (thumb mark), Eastosh (thumb mark), Big Medicine (thumb mark), Enos Light, Arnold Costa, Covers His Face #2 (thumb mark), William Bends, James Big Shoulder, Lots of Stars (thumb mark), Eli Blackhawk, Knows the Ground (thumb mark), Goes Together (thumb mark), Bear Goes to Other Ground (thumb mark), Packs Hat (thumb mark), Yellow Head (thumb mark), Flat Dog (thumb mark), Snapping Dog (thumb mark), Shot in Hand (thumb mark), White Hip (thumb mark), Spotted Rabbit (thumb mark), Looks With Ears (thumb mark), Covered Up (thumb mark), Three Foretops (thumb mark), Coyote Runs (thumb mark), Barney Old Coyote, Richard Wallace, Holds Up (thumb mark), John Sit Down Spotted, James Hill

Votes against: None.

Witnesses to all signatures and thumb marks: Robert Yellowtail, Fred E. Miller.

Attest:

RICHARD WALLACE, *Chairman.*  
ROBT. YELLOWTAIL, *Secretary.*

We, the undersigned, Richard Wallace, chairman of the Crow Indian Council held at Crow Agency, Mont., on November 22 and 23, 1915, and Robert Yellowtail, secretary of the said council, do hereby certify that the above and foregoing is a true copy of resolution passed by said Crow Council on the 23d day of November, 1915, and that the names attached thereto have been compared with the names signed to the original resolution and that the same are correct except that the thumb-mark imprint does not appear upon the copies.

RICHARD WALLACE, *Chairman.*  
ROBT. YELLOWTAIL, *Secretary.*

Senator CURTIS. Mr. Chairman, Senator Gronna has called my attention to the fact that this resolution has not been printed, and I would like to have it read to the committee. It is a resolution passed by the Crow Council. It does not seem to have been printed in the record and I would like to have that read, and even if it has been printed there will be no harm in having it read again.

The clerk read as follows:

CROW AGENCY,  
November 14, 1916.

Senator CURTIS, Senator LANE, and Mr. CHAIRMAN, AND THE OTHER FRIENDS OF THE CROW INDIANS:

You helped to pass a law that the Crow Indians might hold a council of all the tribe without interference to defend ourselves against the Myers bill and conditions on the reservation. We do not like that bill and have one of our own.

We could not hold a council that we are satisfied with.

We have chosen our head men and have raised money to pay our expenses to go to Washington to appear before your committee on December 13, the time you set.

We know what we want: We want to speak for ourselves and ask you to help us get permission for us to go in time. We can not get the money due to us or control of our own land or our own money. We ask you to help us so we can talk to you face to face.

Many of our people are very poor and suffering because of our troubles this winter. We ask you to help us to come there and tell you what we want soon.

Charles Ten Bear, E. T. Wrinkle, E. F. Bear, Howell Hoops, Dexter Williams, Thomas Jefferson, Wm. Shane, Goes Together (thumb mark), Bear Goes To Other Ground (thumb mark), Bear In Middle (thumb mark), Pretty Horse (thumb mark), Cut Ear, Chief Child (thumb mark), Comes Up Red (thumb mark), Alphonsus Hole (thumb mark), Talks Everythings, Looks at the Ground (thumb mark), Froze (thumb mark), Plays With Himself (thumb mark), Jack Stewart, Frank Bethune,

Holman Ceasley, Victor Three Toons, Glen Bird, Herbert Old Bear, Edward Shane, Ned Old Bear, Henry Shinbone, Thos. Medicinehorse, Percy Stops, Fred Froze, John Adams, William Bends, Charges Strong (thumb mark), P. P. C. Strong, Max Big Man, Frank Stewart, Clark Other Bull, C. T. Horse, Thomas Stewart, John Wallace, Albert Anderson, Francis Ten Bear, Mark Red Bird, Sampson B. Ground, Leads The Wolfe (thumb mark), Old Horn (thumb mark), Sees With His Ears (thumb mark), Charges Plenty, Herry Whiteman (thumb mark), Enemy (thumb mark), Plenty Buffalo (thumb mark), No Horse, Passes Everything (thumb mark), Simon Old Crow, Old Tobacco (thumb mark), Yellow Head (thumb mark), Mountain Sheep (thumb mark), Isaac Plenty Hoops, George White Bear, Lots Stars (thumb mark), Clifford White Shirt, In the Hole (thumb mark), Not Mix (thumb mark), Hartford Comes Above.

Senator CURTIS. I will state, Senator Walsh, that that was handed me yesterday and my attention was called to some of those figures, and I called the attention of the gentleman who handed it to me to the fact that you had presented some figures that did not just agree with those, and I have not had time to read either your figures or those since.

Senator WALSH. I presented the official figures.

Senator CURTIS. I told him that you had and asked him to look over the hearings for them.

#### STATEMENT OF HON. THOMAS J. WALSH, A SENATOR FROM THE STATE OF MONTANA.

Senator WALSH. Mr. Chairman, the matter to which Senator Curtis now refers is doubtless a statement made in the paper which has just been read, to the effect that of the lands included in what is known as the ceded strip, opened in 1904, my recollection is—12 years ago—there remain undisposed of 250,000 acres. Similar statements have been made in the course of the discussion before this committee to which this bill has given rise. They have all been met, and every other suggestion has been met in the course of these hearings. I refer you, for instance, to page 38 of the hearings. It is nearly a year ago that a similar declaration was made. I said as follows:

I call your attention to the fact that in 1904 what is known as the ceded strip was opened. That is the northeastern portion of the reservation. It embraces an area of 1,110,000 acres. Senator Curtis asked as to what was left of the land so kept. I have a report from the receiver of the United States land office at Billings, Mont., furnished me, as my recollection is, about the 1st of November last. It discloses that at that time, of the 1,110,000 acres, there were left 120,000 acres of land classified as coal land and not open to entry, and 102,789 acres of noncoal land. That is 90 per cent of those lands have been taken, and presumably what is left is a mere remnant.

Senator CURTIS. Probably rough land.

Senator WALSH. Rough land. Now, I have further information from the Land Office to the 1st of February, showing that that was reduced by the 1st of February to 90,000 acres; in other words, that in three months a reduction of 12,000 acres was made, or at the rate of 3,000 acres per month. That would be 4,000 acres per month, and three months have now passed since then, so I assume there is probably 85,000 acres of the 1,110,000 acres that are left. I might also say that the Indians were guaranteed that those lands would produce a million and a half, and they have produced twice that amount, at least.

Those are the actual facts with respect to that matter. In the same connection the statement was made that homesteaders would

not take this land, and that the only way it was possible to get rid of the lands was by selling them off in large tracts to parties who wanted to use them for grazing and stock purposes. The fact of the matter is that the original act provided for that disposal by public sale in large tracts, and by the time I came here the system had proven a failure as far as the disposition of the land was concerned, that the pick of the land was taken by that system, and that no more sales were being made at all—they were offered on several occasions—and there were no bidders at all, and we procured an order to be made authorizing their entry under the homestead act, the lands to be appraised—indeed, they were appraised before that time, authorizing their entry under the homestead act by appraisal, and you see the result in the figures that are given. Homesteaders have gone in and have rapidly taken up the remnant of these lands within the ceded strip, and are now cultivating them and raising crops upon them. There has not been an objection offered in this document that you have heard read here that was not offered in a letter which the Secretary addressed to the committee at the outset, and which I canvassed before this committee in the testimony given at these hearings, and I undertake to say now and here, that up to the present time not one valid reason has been urged against this bill.

I call your attention, gentlemen, to the fact that this tribe of Indians under the system which it is proposed now to perpetuate, contrary to the settled policy of this Government for 30 years, has been reduced by 50 per cent. There was a population of 3,500 on this reservation in the year 1885, and according to the figures I gave you, 1,696 of them are living. I called your attention to the fact that the deaths annually exceed the births. I called your attention to the frightful condition of infant mortality upon this reservation. I called your attention to the fact that at least 90 per cent of them are afflicted with tuberculosis, and many of them with trachoma, and other loathsome diseases. I called your attention to the fact that every member of this tribe, men, women, and children, have a proportionate interest in something like 1,400 acres of land, and assuming that there are five members to a family, every family on the reservation can own, and is entitled to practically 7,000 acres of land, and I want to know from anybody how that system can be justified as an economic proposition. Moreover, the reduction contemplated leaves as common property for these Indians, some 350 acres of land, or practically 1,500 acres for every family on the reservation, over and above their allotments, you understand.

Now, you have heard here about how these people have nice herds of cattle—9,000 head put upon the reservation, and it has increased to 12,000. Why, my dear friends, this plan that we propose does not in the slightest degree interfere with that herd nor with its development nor with its continuance. It proposes to leave with the Indians just exactly as they have it now, the very portion of the reservation upon which this herd of cattle is kept, a portion of the reservation that will sustain 25,000 head of cattle. Am I right, Mr. Meritt?

MR. MERITT. I think that is true, Senator.

SENATOR WALSH. So, what is the use of talking about it. Furthermore, gentlemen of the committee, you are told about the great irrigation system that these Indians have on this reservation. The irri-

gation system is within the portion of the reservation which is left intact. It does not touch it at all. The irrigation system will continue just as it is. Of course, in my humble opinion, that irrigation system is just a waste of a vast amount of these Indians' money, but good or bad, they have it left.

Reference is made to the treaty—

Senator GRONNA. May I interrupt you just a moment?

Senator WALSH. Certainly.

Senator GRONNA. What about the statement made in this paper here about the large quantity of public land, as I understand it, surrounding this reservation?

Senator WALSH. Senator, that likewise was raised and answered. I will read you what was said. I read from the letter of the Secretary, given at the outset of these proceedings, and to which reference has heretofore been made, making the same statement. You will find it at page 27 of the hearings. That letter stated as follows:

The southern boundary of the Crow Reservation forms a part of the State line between Montana and Wyoming. Large areas of public land are now available for settlement within these two States. A circular issued by the Commissioner of the General Land Office, under date of July 1, 1915, showing the vacant public lands as of that date, gives 19,065,121 acres in Montana and 30,929,969 acres in Wyoming—a total of 49,995,090 acres. It is apparent, therefore, that as far as prospective homesteaders are concerned there is no need of placing additional land in this vicinity on the market at this time.

Now, I commented on that letter as follows:

I am going to ask this committee to open this reservation in order that additional homestead lands may be put upon the market at this time. But these figures are as misleading as the other general declarations in this report to which I have invited your attention. It is true that there are nineteen millions of unappropriated land in our State open to entry, but the Secretary forgot to say that there are only ten millions of this that are surveyed, and, of course, the nine millions left are rocky, rough, broken, inaccessible areas. In other words, there are ten millions of acres of land in the State of Montana still unappropriated and open to entry.

Senator CURTIS. May I ask you a question right there?

Senator WALSH. Just one moment until I finish this statement—and last year there were entries aggregating 3,000,000 acres. So that there is enough land left in the State of Montana at the present rate of appropriation surveyed and open to appropriation to last just three years.

Senator CURTIS. I would like to know if that rough land is good grazing land?

Senator WALSH. Yes; no doubt.

Senator CURTIS. It is good for cattle and sheep?

Senator WALSH. There is no doubt about it. Of course, it is not as undesirable, so far as general utilization for agricultural and stock-raising purposes in a general way—it is not as undesirable as the very summit of the mountains which are included within the forest reserves. That is so much in addition—it would amount to 18,000,000 more in the forest reserves in addition to this 19,000,000 that are here spoken of.

So that if anybody believes that we have more land in the State of Montana than we know what to do with, if he makes a tour of that State his mind will very readily be disabused of that idea.

Senator GRONNA. My idea in asking that question was to follow it up with a question. Is much of this land located right near this reservation?

Senator WALSH. No, sir; I should say that there is practically nothing to-day adjacent to the reservation that is unappropriated. Indeed, I might say, Senator Gronna, that you may go on the Great

Northern Railroad from your State clear through to the Blackfeet Reservation and the eye can reach no unappropriated public land upon either side of the road. Of course, the lands in the southern part of the State are, generally speaking, I should say perhaps more rapidly appropriated than they are in the northern section.

Senator OWEN. Senator Walsh, I observe that this report which was read indicated that there was a treaty in which the vote of these Indians was necessary. What are the facts with regard to that?

Senator WALSH. That, likewise, Senator, was discussed here. It is sufficient to say, however, that the Supreme Court of the United States has held that it is beyond the power of Congress to make a treaty with the Indians that would tie up the hands of a future Congress in disposing of the public land.

Senator OWEN. I know that; but I wanted to know what the agreement was with the people, what the facts were.

Senator WALSH. It has been read, Senator. There was a provision in the treaty to the effect that these lands should not be disposed of without the consent of the Indians.

Senator CLAPP. And that never has been abrogated by the Indians, has it?

Senator WALSH. Oh, no.

Senator CLAPP. I simply wanted it stated for the purposes of the record.

Senator OWEN. The proposition contemplates disregarding that agreement because of what is conceded to be a matter of public policy; is that the theory?

Senator WALSH. Exactly; and the decision on the matter was made.

Senator CURTIS. It is the Lone Wolf case.

Senator OWEN. I think we are all familiar with that.

Senator WALSH. It was made some 10 years ago. Since that time no attempt has ever been made, as far as my information goes, to get the consent of the Indians whenever the Congress of the United States conceives that it is to the interest of the Indians and of the country that these reservations should be opened. If so, they are opened.

Now the only argument that I ever heard advanced by the Interior Department, or the Indian Bureau, in opposition to this measure consists of two; one is that if we open this reservation the saloons will be established all over the ceded portions and the opportunity for Indians to get liquor will be proportionately increased. I also met that argument by saying that they are going to vote for prohibition in Montana, and it would become the law before it would be possible to open the reservation under the act. But that was received with some skepticism. We have voted in favor of State-wide prohibition. It was carried at the last election by 30,000 majority. So that objection is done away with.

Senator OWEN. You voted for woman's suffrage also, did you not?

Senator WALSH. We voted two years ago for woman's suffrage. And another thing was that the Indians did not consent to this. Well, I deal with that here. I defy anybody to go on any Indian reservation in this country and secure the consent of the Indians to the opening of a reservation against two influences—first, the opposition of the Indian Bureau. The Indians know perfectly well that

the Indian Commissioner, for reasons satisfactory to himself, is against this bill. I need not say to the members of this committee what a tremendous influence that has with these Indians, not only because they look upon him as the guardian of their interests primarily, but more than that because the more influential of them like to be in favor with the commissioner. But more than that, Mr. Chairman, is the influence of the lessees who have been given the right to run their stock on this reservation. If you open the reservation of course you will not manufacture any more millionaires off of the leasing privileges of the Crow Reservation. We have made several of them. They are on the reservation. They have great interests there. They and their agents or representatives are on the reservation all the time traveling around among the Indians. They are shrewd politicians and know the Indians. It is a very easy thing to hire an Indian as superintendent of some haying operation or put him in charge of a herd of stock, and things of that kind. He is not insensible to his own interest nor to the influences of his employer, and he does not want the reservation opened.

I tell you gentlemen that if we did not have the leasing system on the Crow Reservation this reservation would have been opened 10 years ago, and when you go back to trace any opposition that there may be to the plan by the Indians on the reservation, you will run up against that influence practically every time. You can not figure on anything like a sound business proposition in leaving 7,000 acres of land in the hands of an Indian family, and you can not figure anything like a business proposition in devoting this marvelously fertile land—because despite anything that may be said in these reports that you have read, this land will be greedily absorbed by homesteaders who want to cultivate it and raise crops on it. You can not figure it out as an economic proposition, that that land ought to be devoted exclusively to the growing of the native grasses without any cultivation at all.

Senator CLAPP. Senator Walsh, what would you say to this proposition: If you owned 7,000 acres of land there that was without any tax burden, you would not be disposed to part with it at the present price, would you?

Senator WALSH. Why, Senator Clapp—

Senator CLAPP. I am speaking now from the Crow side, of course.

Senator WALSH. You can judge best about what I would do by what I have done.

Senator CLAPP. But you have not held any nontaxable property.

Senator WALSH. Oh, yes; but I had property in lands in the State of Montana that have been producing wells. Since I left, we sold out one of the ranch properties in which I had been interested that has paid us regular dividends for 12 years, running from 6 to 10 per cent, and we sold that land at present prices. Last spring we sold out another ranch property in which I was interested.

Now, here is the way I figure it—

Senator CLAPP. I would not sell a foot of my land if I could hold it without taxation for 20 years.

Senator WALSH. Here is the way I figure it out, Senator Clapp. I have held this land for a matter of 10 years. It has produced a reasonably good revenue during that time, and I have no doubt in the world that if I held it 10 years more it would sell for more than

it would to-day. I think the prices of land in Montana to-day are very high. I have no doubt in the world that there will be a recession and that the wave will come again if I wait for 10 or 15 years more; I have no doubt about that, that the land would sell for more. But I may be dead then. I propose to get something out of it in the meantime. I own some timber land over in the western part of the State. I have been trying to sell this timber land. I want the money; I want to make use of it. If I held it for 10, 15, or 20 years, I have no doubt it would sell for very much more than it would to-day.

Now, you have read that this report says there is destitution; that these Indians are poor; and I told you that they need hospitals; they need food. How can you reason it out, with 7,000 acres of land that is growing nothing at all except native grasses, producing, as I was going to tell you, just 8 cents an acre—8 cents an acre is what the present grazing leases produce on that land. Why, I would be quite willing that you should put a provision in this bill that none of these lands should be appraised for less than \$5 an acre, and 6 per cent on that, or 30 cents an acre, should be put in the Treasury here and let it draw 4 per cent, and you would have 20 cents as against 8. Just put it in the bank and let it stay there and not invest it in any way.

Senator CLAPP. But we will not get to the point of reforming the error in the 8 cents an acre proposition. I do not know whether it can be done.

Senator WALSH. I think everybody agrees—I thing Mr. Meritt will agree—that they are getting an enormous price. You may not know—and that is the reason I call your attention to it, or perhaps you have forgotten—that the price has advanced and advanced, and that stock has advanced to a very high price. It now commands a much better price. It has gone up to—what is it?

Mr. MERITT. Do you mean the total amount received?

Senator WALSH. No; the current leasing; \$180,000, is it not?

Mr. MERITT. I have it here.

Senator WALSH. Now, what I was going to say, Senator Clapp, is that in my judgment that is perhaps enough for that grazing land; but you understand our lands in Montana are now being devoted to agricultural purposes.

Senator CLAPP. Of course.

Senator WALSH. And you know enough about it to know that the land will not produce enough if used merely for grazing purposes that can be cultivated agriculturally, and you would not devote it to grazing exclusively; and so while a man is justified in paying \$5 an acre for it for agricultural purposes, it is not worth any such figure as that for grazing purposes; and therefore I suggest to you that it is an economic crime to let that great body of land lie there, producing nothing whatever except the natural grasses that it will grow.

Mr. MERITT. Senator, our record for the last fiscal year shows that the reservation lands leased contained 1,893,591 acres, with a rental of \$186,150. That covered 29,900 head of cattle and 95,000 head of sheep.

Senator WALSH. One hundred and eighty thousand dollars is the figure that I had in my mind, and that was the result of very spirited bidding. Bids were called for, my recollection is, twice, Mr. Meritt.



The first bids were rejected and it was advertised anew, and this was the best result that could be obtained.

Senator CLAPP. I did not ask the question in a spirit of criticism, with regard to the 8 cents an acre. I was simply inquiring if that could not be changed.

Senator WALSH. And that was the answer I was giving to you, Senator, that the department has done the very best it could, I think, to get the very highest price that anybody would give for these lands for grazing purposes. But it ought not to be devoted to grazing purposes. The land ought to be made into homes for people who will cultivate it, who will establish homes there, raise chickens and hogs and cattle, conduct dairying and all that kind of business, and you would increase the production of the land 10 times. Everybody appreciates that.

So I say that as a proposition of public policy it is not a wise thing. And then bear in mind that you get all of whatever benefits there are by the existing system under the plan proposed, because at least two-thirds of those Indians, as the map would show if we have it here, have their allotments within this triangular area amounting to something over 750,000 acres. That is left undisturbed.

Now, I do not know what the temper of the committee is in relation to the bill.

Senator HUSTING. Perhaps if they are getting only 8 cents an acre for leasing, they are not getting the value of the land, and they may get a larger profit by selling it than by leasing it if they can get \$5 an acre for it.

Senator WALSH. No; I do not think that is the idea that enters into the mind of any one at all. The Indian is a creature of environment and of heredity and of custom, just the same as all of us are. The Indian has never known anything about private individual ownership. He has for generations—for centuries, and perhaps for æons, been accustomed to ownership in common, and particularly the old Indian does not want to be even jarred out of it—"this is our land; this belongs to our tribe." He does not want his land in severalty but so much as he can cultivate and handle himself. He wants the whole thing left as it is.

That is a powerful consideration. Secondly, the lands of the ceded strip are sold, and, as I have shown you, for twice as much as it was contemplated, when the land was opened, it ever would bring. In other words, the Indians have got at least twice for this land what they expected to get for it, and yet every one of these Indians will tell you that he never got a dollar, if you go there and ask him. They do not want to sell any more land, because they never got a dollar for what they did sell. That is what they tell you.

Now, what is the fact about the matter? This land was sold, and the disposition of all the funds was left to the Interior Department—an enormous amount of money. I have not the figures in my mind just now as to what was paid in the construction of this irrigation plant.

Senator OWEN. Do you recall how much it was, Mr. Meritt?

Senator CURTIS. They say \$1,250,000 in the report that was read.

Mr. MERITT. It was more than a million and a quarter dollars, Senator.

Senator WALSH. That was put into this irrigation plant, and it is lying there; and now the report tells you how the area under cultivation is constantly increasing. I showed you that the expense of maintaining that irrigation system is twice, or almost twice, the aggregate of the amount of the agricultural production of the reservation, and so, year by year, the amount of this money to the credit of the Indians in the Treasury is being absorbed for the purpose of making necessary repairs on the reservation.

Senator OWEN. How does it happen that the irrigation project does not pay better?

Senator WALSH. Well, the Indians have never been agriculturists. They have been hunters for buffalo and they do not take to agriculture and they are not supplied with teachers.

Senator OWEN. I thought this was under the supervision of the Indian Office?

Senator WALSH. It is. They are doing the best they can.

Senator HUSTING. Did we not appropriate several hundred thousand dollars again at the last session for irrigation?

Senator WALSH. Now, really, you go back and you will find that in some way or another statesmen and philanthropists all had an idea that that was the solution of the matter—to put the land under cultivation and construct irrigation plants and have the Indians cultivate the lands; but they will not do it. You have to teach them how to do it. In the first place, the Indian is not an industrious, hard-working fellow, and it takes hard work—back-breaking work—to cultivate new land and put it under irrigation, and so it is not being done. Then, in addition to that, the expense of maintenance and the expense of administration on this reservation are great. They have a very poor system of bookkeeping in the Indian Office.

Senator CURTIS. It is all paid out of their fund?

Senator WALSH. It is all paid out of their fund. You can figure it out. It amounts to something like \$105,000 a year to run the reservation, and that is coming out of this money, and so the Indians say, "We never got a dollar from the land that we sold."

Senator OWEN. Would it not be a good idea to pension them?

Senator WALSH. Of course it would. Now, we endeavored, Senators, to meet that condition in this bill. We endeavor to fix it so the Indian will know what he is getting and what is coming to him. The report there tells about the expense of administration and says that if this land is opened after this the expenses of administration will have to be met by appropriation out of the Treasury, whereas now they are met out of the funds of the Indians, while they have this 750,000 acres of land, and they have got 12,000 head of cattle on that 750,000 acres of land, and you can increase that herd easily to 25,000, or if you do not increase it, you can lease out the right to graze the additional 13,000 on that and they will pay you \$2.50 a head at least—I think we might say \$3 a head. You can realize that it would make \$39,000 more for grazing. Why, anybody with any kind of business judgment or business capacity at all can take those 750,000 acres of land and 25,000 head of cattle, or their equivalent, 12,000 head of cattle, and if he can not clear \$100,000 a year he ought to quit.

So I call your attention to the fact that they have got land enough left and cattle enough left so that easily all the expenses of administration can be met out of these resources.

Senator OWEN. What are the objections that the commissioner urges to this matter?

Senator WALSH. Why, Senator, I canvassed the letter of the Secretary here. It recites all of the objections that are urged. I took them up one by one and I answered those objections, and no man has ever come before this committee to question or to controvert in any way, shape, or manner those matters that I adverted to.

For instance, one was that the land on this ceded strip had not yet been disposed of; large areas of that land remained undisposed of. Another was that there are 49,000,000 acres of public land open to entry in the States of Montana and Wyoming. Another was that the treaty was against it, when, as a matter of fact, for 10 years in the deliberations of this committee you never consulted or conferred with nor ever took the judgment of the Indians concerning the opening of the reservation, never since the decision of the case to which Senator Curtis has adverted.

Senator CLAPP. Do you recall at this time, Senator, a case in which we have diminished the reservation where there was an express treaty provision? Now there may have been such cases that had passed our scrutiny.

Senator WALSH. Senator Clapp, I read as part of my remarks when this matter was before us, from the report, or at least an article by Superintendent Valentine, who told of the history of this matter and of the decision of the Supreme Court, and stated that thereafter the department never sought to secure the consent of the Indians to the opening of the reservation.

Senator CLAPP. I think that is probably true, but it has not to my knowledge ever come before the committee.

Senator WALSH. I wish I could find it for you, Senator.

Senator CLAPP. I understand that part, but I do not recall now any case to which the attention of the committee was called in which it was known that there was such an express agreement with any tribe where we have diminished the reservation. If there have been such cases, they were unnoticed and passed without attention being called to the treaty itself.

Senator WALSH. Of course, that may be correct, the department, as well as the committee, taking the view that the matter had been disposed of by this decision of the Supreme Court. I do not mean to say that it was not the subject of discussion here and determination.

Senator CLAPP. It has not arisen in the State that I in part represent, because there is no such provision in their treaties, as I recall.

Senator WALSH. You will find at page 19 of the printed record that I say as follows:

I desire to say in this connection that, although this report bears the signature of Secretary Lane, for whom I entertain a very high respect, it is by all odds so weak in its logic and so erroneous in its statement of the conditions that I can not possibly attribute its authorship to Secretary Lane. The letter continues [reading]:

"For the information of your committee the following brief outline of the legislative history of the Crow Reservation is presented:

"Article II of the treaty, dated May 7, 1868——"

Senator PAGE. That was before the admission of your State into the Union, was it not?

Senator WALSH. Yes, sir; that was in 1868, and we were admitted in 1889 [reading]:

"(15 Stat. L., 649), created a reservation in the then Territory of Montana for the Crow Tribe of Indians, which treaty also contained the following:

"ART. XI. No treaty for the cession of any portion of the reservation herein described, which may be held in common, shall be of any force or validity as against the said Indians unless executed and signed by at least a majority of all the adult male Indians occupying or interested in the same, and no cession by the tribe shall be understood or construed in such manner as to deprive, without his consent, any individual member of the tribe of his right to any tract of land selected by him as provided in Article VI of this treaty."

"This obligation on the part of the Government has heretofore been respected. Several reductions of the original Crow Reservation have heretofore been made, but in each instance the consent of the Indians was first had and obtained. By agreement, dated June 12, 1880, the Crow Indians formally consented to the sale and disposal of a part of their reservation, embracing approximately 1,300,000 acres. This agreement was ratified by the act of April 11, 1882 (22 Stat. L., 42). Similar action was had under agreements with this tribe, ratified by the act of March 3, 1891 (26 Stat. L., 1039), under which they ceded 1,200,000 acres, and by the act of April 27, 1904 (33 Stat. L., 352), under which they agreed to the cession of 1,500,000 acres."

Now, I say—

"Now, the Secretary omits to tell you that in the year 1904 the Supreme Court of the United States decided that an agreement of that character was in no sense binding upon the Congress of the United States, and that since that time all of the reservations have been opened without any respect whatever to the provisions of this treaty and without securing acquiescence in it, and accordingly in 1910 this committee reported a bill through Senator Page for the opening of the Crow Reservation without having gone through the formality of securing the assent of the Indians. I shall refer to Senator Page's report a little later on."

You will recall that that was more than six years ago. Senator Page unanimously reported from this committee a bill favoring the opening of the Crow Reservation.

Senator CURTIS. May I state at this point that the decision to which the Senator refers was simply to the effect that Congress had the power to do that if it thought it was for the best interests of the Indians. The Senator is not just correct in the statement that other reservations or all reservations since that time have been opened up without consent. The Osages consented to the opening of theirs in 1906, and I think it has been the policy to have the consent of the Indians if it could be had unless Congress was convinced that it would be to the best interests of the tribe to open it.

Senator WALSH. Well, I made this statement upon the authority of Mr. Valentine, who was the Commissioner of Indian Affairs preceding Mr. Sells, in a very excellent work by Mr. Leupp, entitled "The Indian and his Problem," and I take the liberty now, with the permission of the committee, to read from the work as to what he says upon that subject. I read from page 81—

Senator PAGE. Is this from Valentine or from Leupp?

Senator WALSH. This is Leupp. Now [reading]:

"Until 1903 the prevalent assumption among our people at large was the same as among the Indians themselves, that the reservations belonged absolutely to the tribes which inhabited them in pursuance of so-called 'treaties' or by authority of presidential proclamations. Although not a few of the treaties contained figurative language designed to convey to the tribes concerned the idea of perpetuity of physical possession, every allotment law, and every moral argument made in behalf of allotment as a remedy for some of the more crying evils of the reservation system, plainly recognized that system as but a passing phase of the history of Indian development, and to such extent discredited the notion of a permanent tribal title. It has often been said to me by ultraconservative old Indians that if they had ever conceived of the changes in store for their people as the result of accepting reservations, they would have died fighting the Government rather than submit to being placed there."

"It is declarations like this which form the basis of much of what we hear and read about the deceptions practiced on the Indians by the Government. I have had a part in the negotiations of one Indian treaty and in the interpretation and explanation of several others, and I am confident that most of the sins of the Government in this respect went to no greater depth than its omission to volunteer to the Indians suggestions which it would never have thought of volunteering in a similar transaction with people of any other race of some of the less obvious consequences which might flow from the business then in hand; that the rest of the trouble has resulted from the limited range of the Indian's mind, due equally to his inherited peculiarities and his narrow environment, but rarely appreciated by the members of treaty-making commissions; and that what has been so sweepingly denounced as a century of dishonor might better be described, as far as the Government's operations are concerned, as an era of mutual misunderstandings."

"Every treaty had to be ratified by an act of Congress before it became of force, and again and again the lawmaking body took what looked to the general public like unwarrantable liberties with vital provisions which had received the approval of the Indians. A notable instance in point occurred in 1901 in an act ratifying an agreement with the Kiowa, Comanche, and Apache Tribes, who occupied a large reservation in Oklahoma. To the ratification was attached an item providing for the allotment of lands in severalty to the members of the occupant tribes and the opening of the unallotted surplus of the reservation to public sale and settlement. Some of the features of this legislation differed so radically from the terms of the original agreement with the Indians that the Indian Rights' Association resolved to make a test case of the question of the authority of Congress in the premises. It brought suit, therefore, in the name of Lone Wolf, a prominent Kiowa, to enjoin the Secretary of the Interior from carrying the law into execution. The case finally reached the Supreme Court of the United States, which not only affirmed the right of Congress to do what it had done, but laid down the general principle that the fee in Indian reservations is vested in the Government; that the Indians have nothing more than a right of occupancy; and that the power of Congress to work its will with such reservations is practically limited only by its own sense of justice in dealing with a weaker and dependent people.

"This broad pronouncement carried dismay to the hearts of many excellent persons whose benevolent interest in the Indians had led them to share the Indian view of unqualified ownership and who could hardly reconcile themselves to the discovery that their long-cherished notion was a delusion. But to one who had been studying the subject in a quite unemotional way it brought no great surprise. Nay, it furnished a key to a problem which had given most of us anxious thought, for it had been intolerable to believe that the highest legislative body in this Republic would go on year after year cutting out essential features of agreements with the Indians entered into with the utmost solemnity of form, substituting therefor provisions never contemplated by the immediate parties to these instruments and forcing the unrecognizable resultant down the throats of the weaker party merely because the latter was too feeble to resent the affront. When the Supreme Court gave to the apparent aggressions of Congress the sanction of legal righteousness it at any rate cleared the air and simplified the future duty of the friends of the Indians.

"From the 5th of January, 1903, the date of Lone Wolf decision, to the present day no more agreements have been made or sought with the Indians preliminary to the opening of a reservation."

That is the authority upon which I made the statement.

Senator CURTIS. Right there, if I may interrupt you, the decision was made after a term of court in 1902, rendered, I think, in January, 1903, but Congress did afterwards negotiate and submit to a vote the Osage treaty of 1906. I think it would be well to read the language of the decision at this point.

Senator OWEN. It is rather a declaration of right than of legal righteousness.

Senator CURTIS. The decision is as follows:

The power exists to abrogate the provisions of an Indian treaty, though presumably such power will be exercised only when circumstances arise which

will not only justify the Government in disregarding the stipulations of the treaty, but may demand, in the interest of the country and the Indians themselves, that it should do so.

Senator WALSH. In justice to Mr. Leupp, I ought to proceed with the reading from the last hearing:

Senator CURTIS. Let me state what I know to be a fact. I know that the Osage agreement of 1906 was voted on and approved by the Osages before it was submitted to Congress. I do not care what Mr. Leupp says. I know what occurred.

Senator WALSH. I merely read this so that—

Senator CURTIS. But I want to state that because I know it. The agreement with the Kaw Indians in 1902 was voted on by the tribe and submitted by the tribe to Congress, and Congress approved it. After that time the Osages took the same agreement and worked out their own plan and submitted it. Of course, it was afterwards amended in the department and amended in Congress, but the Osages by a majority vote voted to submit the proposition to Congress. I do not care what Mr. Leupp says.

Senator WALSH. Mr. Leupp goes on [reading]:

"But during my administration as commissioner, when a bill looking to such an opening was introduced in Congress and submitted to our department for comment, I always urged the insertion of a clause to provide for sending a special agent to the tribe concerned, to explain the situation; to interpret the pending bill so that the Indians could comprehend its purport; to assure them in my name that under the ruling of our 'highest council of judges' it would be worse than useless for them to try to prevent the opening of their reservation if Congress had decided that it should be opened; and to ask then to discuss the matter soberly among themselves and send me word what they would like omitted, or modified in, or added to the bill as it stood. The message was accompanied with a promise that I would carefully consider their requests, transmit to Congress those which seemed sensible and wise, and use my utmost influence to procure such changes in the measure before it became a law."

And so, gentlemen, when the bill reported by Senator Page, to which I made reference a little while ago, was before this committee, a delegation of the Indians was here and the committee said to the Indians in substance, "We are going to pass a bill and we would like to get it as nearly in conformity with your wishes as we can." Now they said to the Indians, "You meet with Senator Dixon here and let Senator Dixon know just exactly what changes you would like to have in the bill and present them to us and we will consider them." They did so. I do not know whether any changes were made or not—I dare say there were some. Senator Dixon reported them and they were acted upon, and adopted or rejected as the case may be and the bill was reported.

That was the procedure, in accordance with what he says here.

Now the Commissioner of Indian Affairs comes before this committee and asks you not to pass this bill, not to give it your indorsement or approval, because of the provisions of this treaty which forbids that Congress act on this matter without first getting the consent of the Indians. I have told you my conviction, that you would not get the consent of the Indians while this present condition of affairs obtains.

Senator CURTIS. Mr. Chairman I personally dislike very much to oppose a measure that is supported by both of the Senators from the State of Montana, and I am satisfied from what has been stated by Mr. Walsh and the examination I have made of this case, that something ought to be done for these Indians and that the policy that has been followed there would be changed by the department. I do not think there is any question on earth about that. But I do

believe that where the Indians themselves are unanimously opposed to it, where the Commissioner of Indian Affairs is opposed to it, and the Secretary of the Interior, and similarly the Indian Rights Association, who looks after the interest of the Indians, that we ought to hesitate about passing or recommending the opening up the reservation. It seems to me that Senator Walsh should confer with the officers of the Indian Department, and that they ought to be able to work out some plan that would be of benefit to the Indians—a possible plan to open up some of this reservation, but as far as I am personally concerned, I can not vote for a bill where it is opposed by the Indians themselves and by the Secretary and by the commissioner unless I were fully convinced that it was for the best interests of the Indians, and under all the circumstances I have some doubt that it is for the best interests of the Indians.

The CHAIRMAN. Is there any further discussion?

Senator CLAPP. Mr. Chairman, I see a representative of the Indian Office here. It is possible that he may desire to submit a statement.

#### STATEMENT OF MR. EDGAR B. MERITT, ASSISTANT COMMISSIONER OF INDIAN AFFAIRS.

Mr. MERITT. Mr. Chairman, Commissioner Sells asked me to get out of a sick bed this morning and to come before the committee to express his very strong objection to the passage of the Myers bill for opening the Crow Indian Reservation.

I was before the committee last summer and expressed the views of the office and my own views in detail on this bill, and my testimony is to be found on page 119 of Part II of the hearings. It seems to me that the strongest objection to the passage of the Myers bill for the opening of the Crow Reservation is found in this treaty provision, which says in substance that the Crow Reservation shall not be opened without the consent of the Indians. The Crow Indians have considered the Myers bill. A resolution was passed, I believe, by the Senate submitting this question to the Crow Indians. It was the unanimous opinion of the Crow Indians, expressed without any influence on behalf of the commissioner or the employees of the Indian Bureau, that the Myers bill should not be passed. We concede that Congress has a legal right to open the Crow Reservation, in view of the decision of the Supreme Court of the United States in the Lone Wolf case; but there is a moral question involved here, and that is the question of taking the property of the Crow Indians away from them in the face of their objection, the treaty referred to, and in view of the strongly expressed opposition of the Crow Indians. The Indian Office and Commissioner Sells strongly believe that this bill should not be favorably reported.

I realize that mistakes have been made in the past in the administration and handling of the Crow matters; for example, the construction of this large irrigation project. More than \$1,000,000 have been expended in the construction of this project, but that project was begun 20 years ago, and those now in charge of the Indian affairs should not be held responsible for that condition. The Crow Indians have been decreasing in population during the past few years, so much so that the death rate has been deplorable. However, these conditions are now improving. We are trying very hard now to

teach these Indians industry, and we are impressing upon them the necessity of going to work and making their living by labor, the same as the white man.

Senator CURTIS. Before you conclude with reference to that reservation, may I make a statement and ask you whether or not it is true, or whether or not the opinion I get is correct. I had a letter yesterday from a man named Summers, who said that the Indians were getting 10 cents an acre for that land, and that the department was deducting 50 cents an acre from them and from the money that they earned per acre for irrigation charges. If that is so, you are charging the Indian 40 cents an acre a year more than he is getting for his land.

Mr. MERITT. I do not believe that statement is true, Senator.

Senator CURTIS. I wish you would look it up, because this gentleman has just been upon the reservation. I would read his letter, but I turned it over to Senator Lane yesterday.

Mr. MERITT. We are charging 50 cents an acre for maintaining the irrigation project, but that only applies to land that is actually under cultivation by the Indians. There are about 73,686 acres under the irrigation project and only about 18,000 acres are under cultivation by the Indians.

The irrigation project on the Crow Reservation has been a hopeless failure, so far as business economics is concerned, but it should be borne in mind that we are treating with a people who do not always conform to business principles. It is hoped that within the near future these Indians will make a better use of that irrigation project. I have urged the superintendent to lease that irrigable land for farming purposes so that white farmers can go in there and by making use of that irrigable land, show the Indians by example what can be done. We are at this time leasing, as I stated before, 1,893,531 acres for grazing purposes and we receive an income of \$186,150 from those leases. I stated before the committee that if I were going to write the legislation that would dispose of this land it would be my view that we should allot the entire reservation, divide the land up pro rata, and then if any individual Indian wanted to dispose of his surplus land he might have that privilege, reserving, of course, the minerals and oil, and having a timber reservation, and an area large enough to run the tribal herd. Of course, that is only my personal view of the matter. It has not been passed upon officially by the commissioner or by the department. But the Myers bill, as now worded, is, in the opinion of the commissioner and the Indian Office, entirely against the best interests of the Crow Indians, and is a violation of a solemn treaty entered into with those Indians, and it is the belief of the commissioner and the Indian Office that the bill should not be favorably reported or passed by Congress.

The CHAIRMAN. Is there any further discussion?

Senator OWEN. Mr. Chairman, the difficulty that I see in the way is one of sentiment. We sent this matter back to the Crow Indians to be voted upon by a resolution of the Senate just at the last session, and, to have them vote upon it, and to immediately disregard the vote would seem to me to be painfully negligent of our reasonable attitude. If we are going to ask their opinion about it, intending to disregard it absolutely when we get it, I think that is very inconsiderate. I, of course, realize the legal right of the United States



under the Lone Wolf decision, the same kind of legal right that would obtain to abrogate a treaty with any other nation on the face of the globe. You have the legal right to abrogate a treaty with Germany, but we would not be apt to do that if there was any other way to adjust it.

I think that Senator Walsh has made out an economic case, but it is not a question of mere property. The Indian does not look at these things as the white man does. The Indian does not care much for property. He is not disposed to give his time and energies and do back-breaking work for the purpose of accumulating property. He does not care very much about property. He would rather go out in the sunshine and ride around on his horse and enjoy life in his own particular way. We have been trying to persuade him to take the Saxon view and accumulate the property so necessary to his happiness and his advancement. But there is a fundamental difference between the Indian view and the Saxon view. One man intensely desires to accumulate property; the other man is almost indifferent to the accumulation of property. The old Indian conception was that whenever a friend had anything he naturally would be perfectly willing to divide it, and they would be perfectly willing to divide what they have. That has been demonstrated over and over again. They do not have the same selfish view of property.

But here is a case where we submitted this matter to these people for a vote, and they have voted upon it and voted unanimously against it. That does not conclude the matter necessarily. It seems to me that it would be perfectly feasible for the representatives of the State there to take the matter up with the Indian Office and to have the Indian Office deal with the Crows and come to some kind of an agreement with them that would preserve perfectly our attitude of good faith. I should feel very reluctant to disregard the vote which we have just invited.

Senator WALSH. How would you like a resolution instructing the Commissioner of Indian Affairs to begin negotiations with the Indians looking to the preparation—

Senator OWEN. I believe that would be a better way.

Senator CLAPP. Mr. Chairman, it strikes me, while I am very much impressed with Senator Walsh's argument and realize the embarrassment of voting against representatives of a State who have to deal with the problem and are responsible for its outcome—we need only want to develop the Indian along industrial and economic lines—that if there is anything left of our civilization that is worth implanting in anybody else's mind we want to implant it in his mind.

Now, this is the first time that I have ever been called upon to vote to disregard the express terms of a treaty of this kind. I may have voted to open reservations without knowing that there was such a provision in the treaty, but this is the first time that I have ever been called upon to vote where I knew there was such a provision.

The Senate, as Senator Owen has said, has by resolution submitted this matter to these Indians. I realize that there is a great deal of force in the argument of the Senator from Montana (Mr. Walsh) as to why it was easier perhaps to get a negative than an affirmative vote on this proposition from the Indians. But what will be the Indians' concept of our ideals when we submit this matter and have this

report sent back to us and then offhand and deliberately disregard the treaty obligation which we gave some sanction to in submitting this matter to them? It does seem to me it would be better, Senator, if some resolution could be passed to get the cooperation of the department and see if this could not be worked out without a direct violation of this treaty provision.

Senator WALSH. Let me say, Mr. Chairman, in this connection that the bill was introduced by my colleague, who is unfortunately detained by reason of serious illness and probably will not be here before the 1st of January. I had hoped that my colleagues in the Senate and on the committee would yield to what seems to me the obvious interest of the Indians, and in connection with this matter take up this measure and make such amendments as the committee deemed wise and then pass the bill. But in view of the opinions expressed by members of the committee it may be that we ought to proceed along the line suggested by the remarks of Senator Owen and express to the Secretary the view that he ought to take the matter up with the Indians and see if some agreement can not be reached with regard to the matter.

I should like to ask the committee to postpone the further consideration of the matter until my colleague can be present.

The CHAIRMAN. To what date?

Senator WALSH. I was going to ask, if it will be agreeable to the committee, to let it stand over until the first Wednesday in January.

The CHAIRMAN. Is there objection?

Senator OWEN. Our regular meetings are on Thursday.

Senator CLAPP. Why not make it on Thursday and then we are more likely to have a quorum on our regular meeting day.

Senator GRONNA. I have no objection except that some of us may not be able to be here at that time. Would it make any difference if you set a later date than that?

Senator WALSH. Well, of course, as we all know, the 4th of March will come along now very rapidly. If it is satisfactory to the committee I will be glad to say the second Wednesday in January.

Senator GRONNA. I desire to say a word before we adjourn. As Senator Owen has said, Senator Walsh has made out an economic case, but that is based entirely upon the way the affairs of the Indians have been managed in the past, a manner which is entirely faulty. I do not think it is out of place to mention the fact here that I was subjected to a great deal of criticism, and I might say almost unfriendliness, because I opposed the Indian bill a year ago, the bill that failed. I called the attention of the Senate to the fact at that time that these hundreds of thousands, yes, millions, of dollars that have been taken from the Indians' money and invested in reclamation projects was money wasted. We have conclusive proof of that here to-day in the case which has been so ably presented by Senator Walsh. It is an absolute proof and corroboration of the statement I made at that time, that we were taking the Indians' money and expending it for something that is of no use to the Indian, because the Indian was not prepared to farm under these conditions.

I am simply saying that in order to call not only the attention of this committee but of the department to the fact that we ought to exercise care in appropriating these vast sums of money for irriga-

tion projects. The white men have no objection, of course, to that provided it is taken out of the Treasury of the United States; but, as I said at that time, I do object to the taking of the Indians' money for the purpose of building irrigation projects which eventually inure to the benefit of the white man entirely. There is a possibility of changing this system, and I know that the Indian Office has recently been trying to do it. They have been investing the Indians' money in cattle. But they ought to invest more. If you make millionaires by leasing the land to them on that reservation, why not give the Indians that benefit? It is not impossible for the Indian Office or for Congress to allow the Indian Office to buy cattle and invest the money in that way. If the Indians have not the money, take money out of the Treasury and let them buy cattle instead of leasing to those millionaires or those people, whoever they are, for 8 cents an acre, which is nothing, in my judgment. We pay in North Dakota \$1, and as high as \$2, an acre for grazing land, and I know that 8 cents an acre is only a nominal sum, and it is worth more if it is worth anything at all.

Senator LA FOLLETTE. These Indians have something like \$800,000 in the Treasury now, which would provide for establishing a cattle industry there for them, which would make the lands remunerative to them.

Senator GRONNA. Exactly.

Senator LA FOLLETTE. Give them the opportunity to hold them for a raise that will eventually come.

Senator GRONNA. That is right. If you will establish the right standard and base it upon that, then the argument by Senator Walsh, of course, will fall. But I agree with Senator Walsh that if you are going to conduct the business of the Indians in the future as it has been conducted in the past, we had better pass his bill. There is no question about that. I can not, however, at this time vote to report the bill out. I have no objection to postponing action upon it. I think that ought to be done.

The CHAIRMAN. Is there any objection to the request of the Senator from Montana that the bill be postponed until Wednesday, the 10th day of January, 1917, that being the second Wednesday in that month?

Senator CLAPP. Why do you make it Wednesday, when on the next day we will have a regular meeting and would be more apt to have a quorum present?

The CHAIRMAN. Senator, we will be in session every day at that time on the Indian appropriation bill.

Senator WALSH. I make that suggestion because I find that on the regular day there are a great many other things that require the attention of the committee, and I would like to make this a special matter.

Senator CLAPP. Very well; I have no objection.

The CHAIRMAN. Do you want it disposed of on that day, or do you desire further discussion?

Senator WALSH. If my colleague is here I would like to have it disposed of. I may be obliged at that time to ask a little further discussion.

The CHAIRMAN. A vote will be taken on the bill at that time.

Senator CLAPP. You can not bind the committee to vote on that day.

The CHAIRMAN. Well, we will postpone it to that day for further consideration.

Senator CURTIS. I move that the committee adjourn.

(The motion was agreed to, and the committee adjourned, postponing the consideration of the Crow Indian bill to Wednesday, January 10, 1917, at 10 o'clock a. m.)





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